

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

David Brewbaker,
Petitioner-Appellant,

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0140
Parcel No. 03-000-20-0241

On October 12, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant David Brewbaker (Brewbaker) requested a hearing and submitted evidence in support of his petition. He was self-represented. County Attorney John Criswell is the legal representative for the Board of Review and it was represented by County Assessor Brian Arnold at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Brewbaker, owner of property located at 20646 G58 Highway, Milo, Iowa, appeals from the Warren County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story dwelling built in 1900 with an addition having 1152 total square feet of living area built in 1950, a full unfinished basement, a 128 square-foot wood deck, and a 168 square-foot concrete patio added in 1960. The dwelling has a 4-5 quality grade and is in below normal condition. The property is also improved by a 480 square-foot detached garage built in 1940, a 480 square-foot metal pole barn built in 1980, and a 216 square-foot poultry house built in 1950. The improvements are situated on 1.210 acres. The land is rated below normal and assessed at \$40,000 for the first acre and \$200 for additional acreage.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$98,500, representing \$40,200 in land value and \$58,300 in dwelling value.

Brewbaker protested to the Board of Review on the ground the property assessment is not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a) and the property is assessed for more than authorized by law under section 441.37(1)(b).

He requested a reduction in value to \$78,500, allocated \$20,200 to land value and \$58,300 to improvement value. The Board of Review denied the protest.

Brewbaker then filed his appeal with this Board based on the same grounds. He requested a reduction in value to \$78,500, allocated \$30,200 to land value and \$48,300 to improvement value. He offered three sales of similarly-aged properties in the same school district that he deemed comparable to his property. The following summarizes his sales information:

Address	Sale Date	Sale Price	AV	TSFLA	Acres	AV Land	AV Per Acre	Access
Subject			\$ 98,500	1152	1.21	\$ 40,200	\$ 33,223	Paved Highway
24291 Utah	1/29/2008	\$ 73,600	\$ 68,600	822	2.17	\$ 32,800	\$ 15,115	County Gravel
22473 S23 Hwy	9/30/2010	\$ 83,500	\$ 87,600	1114	2.04	\$ 41,000	\$ 20,098	County Paved
21977 Roosevelt	1/27/2009	\$ 79,000	\$ 77,700	1177	2.00	\$ 32,800	\$ 16,400	County Gravel

Brewbaker relies on these sales to support his claims of inequity and over-assessment of both his land and dwelling. He reports that all of the comparables have aluminum siding when his dwelling has Masonite siding, which is rotting and needs replaced. He believed re-siding the house will cost approximately \$18,000. The sale prices ranged from \$73,600 to \$83,500, with a median of \$79,000 or \$67.11 per square foot to \$89.54 per square foot, with a median of \$74.96 per square foot. Brewbaker's property is assessed at \$85.50 per square foot which is slightly below the upper limit of the range.

While the land portion of Brewbaker's assessment has a higher value on a straight per acre basis, it is the only property listed above on a paved highway. We note the next highest priced land on

a per acre basis is on a paved county road and the lowest priced properties are on gravel county roads. The assessor and Brewbaker used different methods for valuing rural residential land. The assessor did not value the land on a per acre unit of value. So when Brewbaker applies this measurement, it is not reflective of how the assessor arrived at the value.

Whereas, Brewbaker used a per acre value to compare land assessments, the assessor's office used a different calculation. The Board of Review provided data demonstrating the assessor's method for determining rural residential land values. For rural residential land on paved roads in the Belmont area¹ of the county, where the subject property is located, the assessor used the following land values:

Land Quality	Price First Acre	Excess Per Acre
Poor	\$ 32,000	\$ 800
Below Normal	\$ 40,000	\$ 1,000

Since Brewbaker's land quality is rated as below normal and is on a paved site in the White Breast area, his first acre is valued at \$40,000 and the excess 0.21 acres are valued at \$1000 per acre (1 acre x \$40,000 + 0.21 acre x \$1000 = \$40,200). The comparables used by the Board of Review all uniformly apply the method above for either below normal or poor quality land.

Assessor Brian Arnold explained that rural residential properties are not selling on a per acre price and buyers pay for the home site value. Arnold priced these properties with the primary value in the home site and lesser pricing for the excess land. He reported that larger acreages are valued less per acre and smaller acreages are valued at more per acre under this pricing method. Arnold also priced the land based on the map area, whether the road is county or highway, and whether the road was paved or gravel. His map area adjustments are based on rural residential sales of less than nine acres in each area.

¹ Union, White Breast, Squaw Creek and Liberty map areas also use these pricing values for dwellings on paved sites.

The Board of Review submitted information on five comparable sales. Most of the dwellings are one-story frame structures built in 1900. They have quality grades ranging from 5+00 to 4+00. The information is summarized as follows:

Address	Sale Date	Sale Price	AV	TSFLA	Land Q	AV Bldg	SP Per SF	AV per SF
Subject			\$ 98,500	1152	BL NML	\$ 58,300		\$ 85.45
21977 Roosevelt	1/27/2009	\$ 79,000	\$ 77,700	1177	Poor	\$ 44,900	\$ 67.11	\$ 66.00
22473 S23 Hwy	9/30/2010	\$ 83,500	\$ 87,600	1114	BL NML	\$ 46,600	\$ 74.96	\$ 78.64
15461 200th Ave	5/7/2010	\$ 119,500	\$ 112,000	1409	Poor	\$ 77,200	\$ 84.81	\$ 79.49
24291 Utah St	1/29/2008	\$ 73,600	\$ 68,600	822	Poor	\$ 35,800	\$ 89.58	\$ 83.45
16049 150th Ave	12/17/2010	\$ 105,000	\$ 109,600	1284	BL NML	\$ 67,600	\$ 81.79	\$ 85.36

The sale prices of the Board of Review comparables range from \$67.11 to \$89.58 per square foot with a median of \$81.80 per square foot. Their assessments range from \$66.00 to \$85.36 per square foot with a median of \$79.49 per square foot. The subject property is assessed higher than the median and slightly above the upper end of the range.

Assessor Brian Arnold testified at hearing that land sales in the townships of Belmont, Liberty and White Breast had a 2010 sales/assessment ratio ranging from 82.88% to 173.23% with a median of 109.87%. He reported that this indicated assessed land values are approximately 10% high. We note the sales ratio includes three years of sales from 2008 to 2010 and does not rely solely on 2010 sales. For this reason, and because this data does not bear on Brewbaker's assessment, we give it no weight.

Viewing the record as a whole, we find that Brewbaker failed to prove by a preponderance of the evidence his property assessment is inequitable compared to like properties in the taxing jurisdiction or is over-assessed as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act

apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Brewbaker did not prove by a preponderance of the evidence that his property is inequitably assessed under either test.

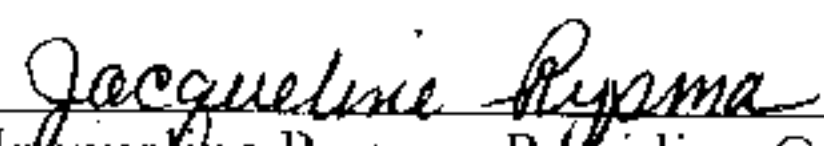
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the

correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Brewbaker failed to prove by a preponderance of the evidence that his property is over-assessed and the fair market value of the property.

Viewing the evidence as a whole, we determine the preponderance of the evidence does not support Brewbaker's claims of inequitable assessment or over-assessment as of January 1, 2011. Therefore, we affirm the property assessment as determined by the Board of Review of \$98,500, representing \$40,200 in land value and \$58,300 in dwelling value as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Warren County Board of Review is affirmed as set forth above.

Dated this 14 day of December 2011.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Chair


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12/14</u> , 201 <u>1</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
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